UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ESTATE OF ERIC RIVERA, by and through successors in interest, PHILLIP MALIK and VALERIE RIVERA; PHILLIP MALIK, individually; VALERIE RIVERA, individually,	)	
Plaintiffs,	)	
vs.	)	Case No. 2:17-CV 06939-CBM
CITY OF LOS ANGELES; LOS ANGELES POLICE DEPARTMENT; ARTURO URRUTIA; DANIEL RAMIREZ, and DOES 1 to 10,	)	
Defendants.	)	

DEPOSITION OF

SERGEANT BRADLEY HEARN

Long Beach, California

Friday, December 14, 2018

Reported By: Shirley Koch, RPR
CSR No. 10849

LitiCourt Job No.: 201450

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DEPOSITION OF SERGEANT BRADLEY HEARN,

commencing from 1:13 p.m. to 4:03 p.m., on Friday, December 14, 2018, taken on behalf of Plaintiffs and reported stenographically, at Casillas & Associates, 3777 Long Beach Boulevard, Third Floor, Long Beach, California, before Shirley Koch, Certified Shorthand Reporter for the State of California, CSR No. 10849, RPR.

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ANDRES MARTINEZ

DANIEL RAMIREZ

ARTURO URRUTIA

JAMES TALMADGE

MARC STERNIN

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The information contained on pages 118 to 133 has been designated as confidential and those pages are bound separately.

Exhibit 10 was marked in the non-designated portion of the transcript but has been designated as confidential and is bound with the confidential portion of the transcript.

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INFORMATION REQUESTED

(None)

LONG BEACH, CALIFORNIA;

FRIDAY, DECEMBER 14, 2018; 1:13 P.M.

THE REPORTER: Do counsel agree to waive the reporter's read on and read off required by the Federal rules?

MR. CASILLAS: I'll stipulate to that.

MS. LEE: I stipulate to that.

(The oath was administered to the deponent, SERGEANT BRADLEY HEARN, as follows:)

THE REPORTER: Do you solemnly state, under penalty of perjury, that the testimony you shall give in this deposition shall be the truth, the whole truth and nothing but the truth?

SERGEANT HEARN: I do.

EXAMINATION

BY MR. CASILLAS:

Q. Sergeant Hearn, good afternoon.

A. Good afternoon.

Q. We've met once before, if I recall. We're here to take a deposition. The deposition is a formal question and answer session related to your involvement

as a witness in an incident. It's probably not unlike the testimony you've probably given hundreds of times in court.

But just for the record, would you please spell your name.

A. It's Bradley, B-R-A-D-L-E-Y, Hearn, H-E-A-R-N.

Q. Okay. And Sergeant Hearn, have you been deposed in the past, ever?

A. I've been deposed once, for a traffic collision incident.

Q. Okay. And like I say, the basic same ground rules apply. You probably remember, probably had it refreshed earlier. But the upshot of it is this: We've got a court reporter here taking everything down word for word. After today, she is going to prepare a transcript of everything that will be said today. We're going to ask you to review it, make any changes to it and sign it under the penalty of perjury as being accurate; fair enough?

A. Understood.

Q. Okay. A lot of times when people are having a conversation here, face to face, we speak nonverbally; kind of shrug our shoulders, nod, say uh-huh and uh-uh. Face to face, it's actually a very effective way to communicate. But it's something that, for the court

reporter, is sometimes difficult to capture. You know, accuracy is always important. So I'll ask that you answer all of the questions verbally; fair enough?

A. Understood.

Q. Okay. We don't walk around in our lives measuring things and, you know, checking our watches as to how long things take. But here today, I may ask you for just that. Okay. The time between two points, the distance between two points, and your general recollection of things that may have happened.

Okay. I certainly don't want you to guess. But on the other hand, I'm entitled to get your best estimate. An estimate is based on something that you experienced somehow; something you heard, something you saw.

If I were to ask you, for example, how tall Ms. Lee is, having seen her, you'd be able to give me a good guess. If I asked you how tall my mother was, pure speculation. Okay. The difference between a guess and speculation, I'm sure, is very clear to you.

A. Yes.

Q. Okay. No guessing allowed; fair enough?

A. Fair enough.

Q. Okay. If you answer a question, I'm going to assume three things. I'm going to assume you heard the

question. I'm going to assume that you understood the question. And I'm going to assume that the answer you give today is the best answer you could give. Is that fair?

A. That's fair.

Q. Okay. Do you promise to tell me if you don't understand my question, or a term or a phrase that I use; yes?

A. To the best of my knowledge.

Q. Okay. Now, during your deposition, I may ask for a definition.

A. Okay.

Q. When I ask that, I -- I don't want, you know, a Webster's Dictionary definition. I want is a definition of the word or phrase as you use it. Okay?

A. As long as that's clear.

Q. Yes. And then I -- I guess before we get started, is there anything that's happened in the last 24 hours that is going to limit or impact your ability to give your best testimony today?

And the example I always give is, you know, maybe you were on a roll out last night and, you know, the last 24 hours you've been awake, or maybe you've got a -- a baby at home that is sick and didn't let you sleep. Or maybe you had some bad food last night or

maybe you're taking medication. Anything like that going on?

A. No.

Q. Okay. Are you currently employed?

A. Yes.

Q. Who do you work for?

A. Los Angeles Police Department.

Q. How long have you worked for the LAPD?

A. I've been a police officer for 24 years.

Q. Before that, were you in the military?

A. No.

Q. Okay. Before that, did you have another job in law enforcement?

A. No.

Q. Okay. Before coming to the LAPD, did you go to college?

A. Yes.

Q. Okay. Did you receive a degree of some sort?

A. I did.

Q. And what degree is that?

A. I got a degree in business management.

Q. ++ And from which college?

MS. LEE: Well, objection. I'm going to instruct him not to answer on that, based upon peace officer's privacy and privilege. He's not going to

answer that.
BY MR. CASILLAS:
Q. The -- it's not that important. Don't worry about it.
The -- do you hold any -- other than a driver's license, do you hold any certificates, any licenses, any state-issued permits to perform any sort of work or engage in any profession?
A. No.
Q. Okay. Are you POST certified?
A. Yes.
Q. Okay. And is there a POST certification that takes place periodically?
MS. LEE: Well, objection. That's vague, ambiguous, and overbroad as to what. And also lacks foundation. I don't believe he works for POST, but he can answer as to his general knowledge pursuant to his training and experience.
MR. CASILLAS: Yes.
THE WITNESS: Could you clarify what you're asking, please?
BY MR. CASILLAS:
Q. You're POST certified?
A. Yes.
Q. In what?

A. There's different levels of POST certification.
Q. Yes.
A. So I have a basic.
Q. Okay.
A. There's an advanced. There's an intermediate -- there's a basic, an intermediate, advanced and supervisory POSTs.
Q. And do you have to renew those or recertify periodically?
MS. LEE: Once again, objection. It lacks foundation and calls for speculation pursuant to this witness. But he can answer if he has any general understanding.
THE WITNESS: Not -- not that I'm aware of, no.
BY MR. CASILLAS:
Q. Okay. Other than that certification, do you hold any other degrees, licenses, permits or anything like that?
A. No.
Q. Okay. Other than working as a police officer, do you have any other employment currently?
A. No.
Q. Okay. The -- when did you join the LAPD?
A. I joined October 3rd, 1994.
Q. And again, that was as a cadet at the academy?

A. Yes.
Q. Do you remember your academy class number?
A. 10A94.
Q. 10?
A. A94.
Q. And did you successfully complete the academy training your first time through?
A. Yes.
Q. Okay. And when you were at the academy, did you receive any accommodations, any special recognition?
A. No.
Q. ++ Okay. Were you disciplined at all while in the academy?
MS. LEE: Objection. I'm going to instruct him not to answer as to any alleged prior disciplines, which I don't know exists or doesn't exist, but as privacy and privileged information.
BY MR. CASILLAS:
Q. The -- after completing the academy, I'm assuming you were first assigned to a patrol duty somewhere?
A. Yes.
Q. Okay. And there was a -- for lack of a better word, I -- I always call it a probationary period. But it's a period of six months or so that I understand the

LAPD puts its officers through with a field training officer. Did you also do that?

A. Yes.

Q. Okay. And where was your first patrol assignment?

A. It was West L.A. Division.

Q. And how long was that probationary FTO period?

A. One year.

Q. And did you successfully complete that the first time through?

A. Yes.

Q. Okay. And after -- so would that have been sometime in '95?

A. No. That would have been '90- -- I think maybe '95 or beginning of '96, somewhere in there.

Q. What was your first patrol assignment after probation?

A. I worked the Northeast Division.

Q. And how long did you do that?

A. One year.

Q. General patrol?

A. Yes, sir.

Q. After that, what was your next assignment?

A. 77th Division.

Q. Again, general patrol?

A. It was both a P2 and a P3 and a P3 in our vice unit.

Q. That's not a detective status assignment, was it?

MS. LEE: Objection. It's vague and ambiguous and overbroad. But he can answer.

THE WITNESS: It's not an official detective position, no.

BY MR. CASILLAS:

Q. And at 77th, with those assignments, how long were you there?

A. Approximately ten and a half years.

Q. Okay. As you came up P2, P3 and then vice?

A. Yes, sir.

Q. Okay. That would have brought you to about 2008. Is that when you became sergeant?

A. I believe it was 2007 when I became a sergeant.

Q. Okay. Was that the first time you tested for sergeant?

A. No. I believe that was the second time.

Q. And so you had a -- a period there, possibly at 77th Division, as a sergeant?

A. No.

Q. No. Once you became sergeant, what was your first assignment?

A. I was back in Northeast Division.
Q. And were you a patrol sergeant?
A. Yes, sir.
Q. Okay. How long did you have that assignment?
A. One year.
Q. What were your general duties there as a patrol sergeant at Northeast?
A. I oversaw the officers that were on my shift or the officers working during my shift time. I responded to their calls and monitored their activities. I took complaint intakes. I investigated uses of force, pursuits, and any, you know, high-profile cases or calls that came out if I thought there was need for supervisory oversight.
Q. And I'm not sure if the term was in use. Were you a watch sergeant?
A. I was assigned to a watch.
Q. Okay. The -- during that -- and you were there at Northeast for one year?
A. Yes, sir.
Q. Did you conduct an investigation of any OIS cases?
A. We don't -- we don't investigate OIS cases.
Q. So your work as an investigator -- as a sergeant investigating use of force was limited to

nonshooting cases, obviously; yes?
A. Yes.
Q. And OIS's went to FID?
A. Yes.
Q. Or was that in place yet?
MS. LEE: I'm sorry. What you did you say? Was that in?
MR. CASILLAS: Place yet.
THE WITNESS: Yes, we had an FID in place then --
MR. CASILLAS: Okay.
THE WITNESS: -- or something. I don't know if it used the same acronym then, but --
BY MR. CASILLAS:
Q. The equivalent?
A. Yes.
Q. Officer Urrutia , who is here with us today, when did you first meet him?
A. I think I might have known him at 77th, but I'm not 100 percent sure. And then the next time I would have met him would have been at Harbor Division.
Q. And Officer Ramirez, when did you first meet him?
A. At Harbor Division.
Q. Sometime in 2008, you went from Northeast

Division to another assignment?

A. Yes, sir.

Q. Where was that?

A. I got moved to our jail division.

Q. Sounds like fun. The -- what were your general duties in the jail division?

A. We'd take -- we'd monitor the jail division employees who were -- they were not police officers or detention officers.

Q. Civilian employees?

A. They're civilian employees. Again, if we had -- if they were involved in a use of force, we'd investigate that. Any complaints or issues that may arise from any of the inmates.

Q. How long were you and -- and by the way, were you at M.D.C, the Metropolitan Detention Center?

A. No. I was at the old PAB jail.

Q. How long were you at the jail division?

A. One year.

Q. After that, where were you assigned out to?

A. Harbor Division.

Q. Are you there now currently?

A. Yes, sir.

Q. Approximately 2010 is when you started at Harbor?

A. I believe that's right.
Q. And do you have the same responsibilities and duties now that you had when you started in 2010 at Harbor Division?
MS. LEE: Objection. It's vague and ambiguous and overbroad.
But you can answer.
THE WITNESS: If you can narrow down your question?
BY MR. CASILLAS:
Q. Sure. We'll do it the other way. When you started in 2010 at Harbor Division, what was your assignment?
A. I was patrol sergeant.
Q. And is there a particular shift that you managed?
A. I was on both watch -- or Watch 3 and -- I think the whole time I was on Watch 3. I think.
Q. And Watch 3 runs from what period to what period?
A. 1800 to 0630.
Q. And is that a 1040 type assignment?
A. No. It was a 312.
Q. I should have done the math. The -- and what were your duties there as patrol sergeant at Harbor

Division when you started in 2010?

A. Basically the same as my patrol duties were when I was at the Northeast Division. I monitored officers, took complaints when they came in, use of force investigations, pursuit investigations, rolled out the calls where I thought supervisory response was warranted.

Q. And how long were you patrol sergeant in Harbor Division at Watch 3?

A. I believe I was there in that capacity for four years.

Q. So in 2014 or so, what was your next assignment?

A. I was at Harbor Division as a captain's adjutant and a patrol captain's adjutant.

Q. Who was the captain?

A. I had four different captains that I was an adjutant for.

Q. And the job of a patrol captain's adjutant, what were your duties?

A. They were all administrative.

Q. How long did you serve as adjutant?

A. Two years.

Q. That takes us to about 2016. Did you return to patrol?

A. No. Then I made -- I was -- I was upgraded to a Sergeant II position, which is assistant watch commander.

Q. And about what time did that happen; what month of 2016?

A. How many months in 2016?

Q. Yeah. I mean, did it happen in January? Did it happen in June?

A. I may have my times mixed up in there because I think I've been in AWC for three years now, approximately.

Q. And again -- as I understand it, the time of the incident involving -- or that we're here to talk about, you were assistant to the watch commander Sergeant II; correct?

A. Yes.

Q. Okay. And what were your duties then?

A. Then I basically run the watch while I'm working. I -- I give out car assignments, I run everything with a patrol. Monitor officers' calls, in a general sense for the whole watch. I field calls from citizens. I keep the watch commander's log. Again, we -- we can have complaints come in. So I deal with citizen complaints. I review reports. I check in arrestees. That's the majority of my time.

Q. Were you involved in training?
A. In an official capacity, no.
Q. How about informally?
A. The only training that I would be involved in was maybe anything through roll call training.
Q. And that was training that you do, maybe hands-on, during the start of briefings, roll call or briefings; yes?
MS. LEE: Objection. That's vague and ambiguous and overbroad.
But you can answer.
THE WITNESS: Sometimes we have information that -- training kind of information that we give out. But it's always -- it's never the same. It's not -- there's not training every roll call.
BY MR. CASILLAS:
Q. And -- and that sort of roll call training, did that include the issuance of memos, notices, maybe indicating, for example, a change in policy, maybe a change in procedure, things like that?
MS. LEE: Objection. It's compound.
You can answer.
THE WITNESS: Not -- not typically.
BY MR. CASILLAS:
Q. Uh-huh. And can you give me some examples of

the type of roll call training -- excuse me -- roll call training that you undertook.

A. We could have roll call training on -- most of the time, roll call training was in conjunction with policies that were maybe already in place but something happened somewhere across the city that -- that brought it to light again. It might be something, like how to deal with mental illness or how to deal with exposure to certain narcotics or, you know, driving safely or it could be a number of topics.

Q. Obviously you, yourself -- I did a little math here -- you served as a patrol officer for the LAPD for about 12 years?

A. Well, it would have been from '94 until 2007. I believe I made sergeant 2007.

Q. Yeah, 12, 13 years. The -- did you receive training that touched on the subject of suspects with toy guns?

A. Not specifically, no.

Q. Do you remember the subject ever coming up? In other words, any training that in one way or another discussed that you, as an LAPD patrol officer, would out, in the field, encounter suspects, persons in the possession of toy guns?

MS. LEE: Objection. It's vague and ambiguous.

And it's overbroad.

But go ahead.

THE WITNESS: I don't really under- -- understand the question that you're asking.

BY MR. CASILLAS:

Q. Yeah. And about as straightforward a way as I can do it: During your time as a patrol officer, and by the way, that would your include your time at the academy, did the LAPD inform you that out on patrol you would encounter or could encounter individuals that were in the possession of toy guns?

MS. LEE: Okay. It's overbroad as to the time period, including the academy and while on patrol. And it's vague and ambiguous, as to did the LAPD tell you.

But you can answer if you have any general knowledge.

THE WITNESS: I don't have any general knowledge of specific training for that.

BY MR. CASILLAS:

Q. Okay. And well, my question is more than just general knowledge. It's specifically.

Do you remember in any of the training that you received from the LAPD the subject of toy guns ever coming up?

A. Yes.

Q. And when was that?
A. I don't have a recollection of what time that was.
Q. Okay. And do you remember the substance of that training, of that information?
MS. LEE: Well, it's also overbroad as to the training or information. So I'm going to ask him, when he answers it, to specify if he can.
THE WITNESS: I don't have any specific recollection of any specific training.
BY MR. CASILLAS:
Q. Were you ever a field training officer?
A. Yes.
Q. Okay. When?
A. Again, that was while I was at 77th. And I don't remember the times, the dates.
Q. And at 77th, to the best of your recollection, how long did you serve as an FTO?
A. Probably in the area of seven years maybe.
Q. And during those seven years, again, your best estimate, how many officers did you train?
A. I have no idea. I would have to speculate.
Q. Okay. Was it at least one a year?
A. Probably, yeah, at least.
Q. And -- and was that part of your regular

assignment? And I'm distinguishing -- I know, for example, that some field training officers may not always be assigned as an FTO and may just be out on patrol. Do you understand that to be the case occasionally?

A. The only time I wasn't in patrol is when I worked vice.

Q. Okay. And as an FTO, during those -- did you say it was seven years?

A. Yes. And that would have included my vice time too.

Q. Okay. And as an FTO, did the LAPD send you to -- or provide you with training as to how to conduct your duties as an FTO; an FTO school, for lack of a better word?

A. Yes, they had an FTO school.

Q. Do you remember the nature of the training that was provided to you at FTO school?

A. Most of the time it was how to properly keep up with the P1 books and the duties of making sure we documented and gave them the training that was in their P1 books.

Q. And P1 books are basically the manuals that spell out the different duties and responsibilities of a Police Officer I; yes?

A. Yes.

Q. Okay. And does that cover use of force?

A. Yes.

Q. And so to make sure that the record is straight, as a training officer, as an FTO during those seven years, you had the responsibility of training new police officers for the LAPD as to the use of force; correct?

MS. LEE: Well, objection. That's extremely overbroad and vague and ambiguous as to LAPD officers.

But you can answer.

THE WITNESS: That was part of it. They already had training from the academy, from their time in the academy.

BY MR. CASILLAS:

Q. Right. And -- and so they come out of the academy. They go to your -- the assignment there. I guess it was at 77th. They're on patrol. And you have the responsibility of training them as to -- can we say like the -- the practical aspects of -- of being a LAPD patrol person; right?

MS. LEE: Vague and ambiguous and overbroad as to practical aspects of being an LAPD officer.

But go ahead.

THE WITNESS: Can you specify your question?

BY MR. CASILLAS:

Q. Yeah. I mean, as a -- as an FTO dealing with, you know, recently graduated recruits. I mean, they come on. Their first day on the job as an actual patrol officer is with an FTO; correct?

A. Yes.

MS. LEE: Well, objection -- okay.

BY MR. CASILLAS:

Q. And the job of the FTO is to teach that new officer the nuts and bolts of actual policing; yes?

MS. LEE: Objection. Vague, ambiguous and overbroad as to nuts and bolts of actual policing. And also the deponent is not here today in the capacity of a PMK, as a representative of LAPD. But he can testify as to his own personal knowledge and experience.

So go ahead. You can answer with that in mind.

THE WITNESS: Can you ask your question again?

BY MR. CASILLAS:

Q. Yeah. Your -- your role, as an FTO, was to provide the new recruits with the practical aspects of policing; correct?

MS. LEE: Well, same objection as to practical aspects.

But go ahead.

THE WITNESS: Ours was to -- I don't know how

to properly say it. To expose them to regular radio calls and how to handle radio calls of the various sorts.

BY MR. CASILLAS:

Q. Right. And would you in -- as part of your own training of new recruits as you served -- or when you served as an FTO, would you discuss with those recruits the policies related to the use of force?

MS. LEE: Extremely overbroad as to the discussion with all recruits he's ever trained. But he can testify if he has any recollection.

Go ahead.

THE WITNESS: Yes. I would go over policies as they came up in general.

BY MR. CASILLAS:

Q. Well, you told me about FTO school. And I think you mentioned that, you know, part of the work you did at FTO school was basically cover those items in the P1 book; correct?

A. Correct.

Q. And in the P1 book, was one of the items that you had to cover use of force?

A. I believe that's covered under policies in general.

Q. Okay. So you did cover with those recruits the

various uses of force; true?

A. Yes.

Q. Okay. And certainly that included things like, you know, baton strikes, pepper spray; correct?

A. Yes.

Q. Okay. Did it also cover deadly force; specifically, the use of firearms against suspects?

A. Yes.

Q. Okay. And would you provide your trainees, you know, for lack of a better word, kind of mock scenarios that you would just run through with them involving uses of force, specifically deadly force?

MS. LEE: Objection. Compound, vague, ambiguous and overbroad.

But you can answer.

THE WITNESS: Do you have a specific question, sir?

BY MR. CASILLAS:

Q. Yeah. I mean, you're in a patrol car. You're driving around. And hopefully you didn't have actual real scenarios where you or your recruit had -- or your trainee had to use force. But I mean, would you have conversations about using firearms in the line of duty for self-defense?

MS. LEE: Objection. It's extremely vague and

overbroad. I think it's incomplete. It's vague and overbroad.

But you can answer.

THE WITNESS: We would go over the parts of the department's use of force.

BY MR. CASILLAS:

Q. During any of the training that you provided any of the trainees that you can recall, did you ever discuss with them suspects in the possession of toy guns?

A. Not that I can recall.

Q. Any particular reason why that wouldn't have come up?

MS. LEE: Well, objection. It's -- it's vague, it's ambiguous. It's argumentative. But if he has an answer, he can give it.

THE WITNESS: You need to be more specific.

BY MR. CASILLAS:

Q. Yeah. I mean, let's say by the time that you became an FTO in 77th, sometime in 2008 or 2009, were you aware of, for example, the existence of airsoft guns?

A. I don't know what year those airsoft guns came out so --

Q. And were you aware of the existence of toy guns

that kind of replicated real guns?

MS. LEE: Objection. That's vague and ambiguous as to toy guns that replicated real guns.

But go ahead.

THE WITNESS: I'm aware that there's guns out there or toy guns that look like real guns.

BY MR. CASILLAS:

Q. Right. And -- and even if -- if your advice to your trainees were, you know, hey, look, treat every gun, whether toy or not, like a real gun, but did you have conversations like that with your trainees?

MS. LEE: Well, objection. That lacks foundation. It's compound. It's vague and ambiguous.

But you can answer.

THE WITNESS: Can you be more specific?

BY MR. CASILLAS:

Q. No. I'm not -- I can't be more specific. Did you ever have any conversations with your trainees about toy guns that you can recall?

MS. LEE: Asked and answered.

But go ahead.

THE WITNESS: I don't recall any specific conversations.

BY MR. CASILLAS:

Q. How about any general conversations? Maybe as

your regular practice, that was an item that you would cover with them. Do you remember anything generally?

A. Not that I can recall.

Q. Okay. I -- I want to exhaust all of your -- your knowledge and recollection about how the LAPD deals with suspects with toy guns. I think you just have a general recollection of it coming up. And you don't have any specific or general recollection of you having any conversations with your trainees when you were an FTO; is that correct?

MS. LEE: Objection. That's compound. And it also -- once again, he's not here as a PMK for LAPD. So the first part of your question as to I want to exhaust your knowledge so how LAPD deals with training with toy guns is inappropriate for this question. And I'm going to have a motion to strike that portion of it. But I think it's already asked and answered.

But go ahead.

THE WITNESS: I believe I've answered those questions, sir.

BY MR. CASILLAS:

Q. Okay. And -- and just to address the objection. I -- you're here as a police officer with extensive experience. You know, you've recounted your history. And I recognize that it's experience and

you've done very significant things in the LAPD. You're here only as a witness with that background. I -- I -- I certainly don't want you to speak on behalf of the LAPD. That's not our purpose here today. Okay.

So to the extent you answer any question, it's -- it's -- the question is offered only to get to your information, your recollection of your own experiences. Do you understand that?

A. Yes.

Q. Okay. Anyway, do you remember the -- learning of any LAPD officer shooting anyone in the possession of a toy or replica gun?

MS. LEE: Objection. It's vague and ambiguous. I don't understand. What -- can you repeat the question? The learning of? Did he ever hear of it, is that what you're asking?

MR. CASILLAS: Yes.

MS. LEE: Oh, okay. Because I didn't understand.

But you can answer.

THE WITNESS: I don't remember any specific incident.

BY MR. CASILLAS:

Q. But do you remember it being discussed and whether it was a rumor, whether it was learning that you

may have read it in a briefing report? In any way, shape or form, did you learn that an LAPD officer had shot someone in the possession of a toy gun, mistaking it for a real gun?

MS. LEE: Well, objection. It calls for speculation as to -- as to the incomplete hypothetical. Learning -- it's vague and ambiguous as to later learning that it was a toy gun. But he can testify if he's ever heard of a situation that an officer-- an LAPD officer had engaged in an incident of an OIS, where it was later determined the gun was a toy gun.

THE WITNESS: I can't -- I can't recall any specific incident.

BY MR. CASILLAS:

Q. The -- in this particular case, the shooting of Eric Rivera, did you learn that he was in the possession rather -- strike that.

Did you learn that it was alleged that he was in the possession of a toy gun?

MS. LEE: Well, objection. It's vague as to time. Learned when?

MR. CASILLAS: It doesn't matter when, Counsel.

MS. LEE: Well, be specific --

MR. CASILLAS: I don't care when.

MS. LEE: -- as to time --

MR. CASILLAS: I don't care if he learned that this morning. Okay.

MS. LEE: Well, then be specific with your question.

MR. CASILLAS: I don't have to be --

MS. LEE: And please don't yell at me and don't raise your voice.

MR. CASILLAS: And let the record reflect that I am raising my voice.

BY MR. CASILLAS:

Q. Okay. The upshot of it is, did you learn at some point, up until today, that Eric Rivera is alleged to have been in the possession of a toy gun?

A. Yes.

Q. And when did you learn that?

MS. LEE: And I'm going to instruct him not to answer if it pertains to information that he obtained from me or anyone on my team as attorney-client privilege.

But you can answer outside of that.

THE WITNESS: I learned later on. I don't know when, the specific date or time when I found out that the gun was a toy gun.

BY MR. CASILLAS:

Q. Obviously, you were out at the scene?

A. Yes, sir.
Q. And did you hear from Officer Ramirez or Officer Urrutia that they claimed that Mr. Rivera, Eric Rivera, was in the possession of a firearm?
MS. LEE: Well, okay. Objection. That's compound as to both of them.
But you can answer.
THE WITNESS: I was made aware of information that he had a gun.
BY MR. CASILLAS:
Q. Who told you that?
A. Well, one, it was in the comments of the call when the call came out, that there was a man with a gun call. And from listening on the radio that they had a man with -- you know, that they had been involved in a shooting with a man with a gun.
Q. Okay. That still doesn't touch on your knowledge about it being a toy gun.
MS. LEE: Well, objection. That wasn't the question.
BY MR. CASILLAS:
Q. When did you learn it was a toy gun?
A. Like I stated before, it was sometime after that incident. I don't know when.
Q. When you were on the scene, did you look for a

gun?

A. I did not, no.

Q. Why not?

A. Because that was not my job.

Q. And I -- and trust me, I'm not being argumentative. And -- and I know that when you're out there, you had very specific assignments.

Did you, while out on the scene, talk to Mr. Ramirez or Officer Ramirez?

A. I had -- we had words, yes.

Q. Okay. And did you have stern words with Officer Ramirez?

MS. LEE: Objection. Vague and ambiguous as to stern.

But go ahead. You can answer.

THE WITNESS: I don't remember any stern words, no.

BY MR. CASILLAS:

Q. Okay. How about Officer Urrutia?

A. I spoke with Officer Urrutia, yes.

Q. Did you have any stern words with him or for him?

A. No.

Q. Okay. Now, we got a little bit ahead of ourselves. But the -- when did you first meet Officer

Ramirez?

MS. LEE: Objection. I think that's asked and answered.

But go ahead.

THE WITNESS: I really -- I really hadn't -- I really didn't know Officer Ramirez that well. He had only been at Harbor a very short time. So I think that evening, I don't even know if I knew his name.

BY MR. CASILLAS:

Q. Okay. And -- and did you learn later that -- where his previous assignment was?

A. No, sir.

Q. Okay. Same question for Mr. Urrutia. Prior to the incident involving Eric Rivera, had you met Officer Urrutia?

A. I believe I answered that question earlier, sir.

Q. Right. And -- and I'm being more specific here. I know that you met him at 77th. But was he already there when you came to the Harbor Division?

A. I believe I answered that earlier, that I may have met him at 77th. I wasn't 100 percent sure.

Q. Yes. And -- and my question is: Do you know if he was there at Harbor Division before you came there?

A. No. I don't believe he was at Harbor Division before I got there. But I'm not -- again, I don't know -- I don't know 100 percent sure.

Q. ++ All right. Had you ever disciplined Officer Urrutia for anything?

MS. LEE: Objection. I'm going to instruct him not to answer. I don't know if he has or if he hasn't, but as to -- it's privileged and -- it's privileged under the peace officer's privilege.

MR. CASILLAS: May I propose that we go under a confidential part of this transcript and have him answer those questions?

MS. LEE: No.

MR. CASILLAS: Okay. Then we might be back to talk about that.

BY MR. CASILLAS:

Q. ++ But anyway, the upshot of it is: Did you learn that he had been disciplined in any way, shape, or form before the incident involving Eric Rivera?

MS. LEE: Same objection. Same instruction not to answer.

MR. CASILLAS: Same offer that we go into a confidential record?

MS. LEE: No. We will not agree to that.

BY MR. CASILLAS:

Q. ++ Now, with regards to Mr. Ramirez's discipline for the shooting of the Eric Rivera, whether it was anything like a letter into his -- his file, more formal discipline, retraining, are you aware of any such discipline?

MS. LEE: Same objections. Not to answer -- I'm sorry. Same objections. Privacy. Instruct not to answer.

MR. CASILLAS: Same offer to discuss that on a confidential part of the transcript?

MS. LEE: Won't agree to that.

BY MR. CASILLAS:

Q. ++ The -- were you aware of Officer Urrutia having discharged his firearm outside of training at any point before he shot Eric Rivera?

MS. LEE: Same objections. Privacy. Privileged. Instruct not to answer. Once again, I don't know if these -- if he knows or if it exists, but I'm not -- the instruction is not to answer based on those objections.

MR. CASILLAS: Same offer to go onto a confidential transcript to discuss those?

MS. LEE: Won't agree to that.

BY MR. CASILLAS:

Q. ++ Same question for Mr. Ramirez: Were you

aware of him having been engaged in a use of force incident involving a firearm prior to his contact with Mr. Rivera the night that he was shot and killed?

MS. LEE: I think that was the same that you just asked, but it would be the same objection and same instruction.

MR. CASILLAS: Same offer.

MS. LEE: You mean your offer to discuss it under seal?

MR. CASILLAS: Uh-huh.

MS. LEE: We won't agree to that.

BY MR. CASILLAS:

Q. Okay. The -- did you ever have any conversations with Mr. Ramirez regarding his shooting of Eric Rivera, after the shooting itself? And I'm referring to conversations after you left the scene of the shooting, the day of the shooting.

MS. LEE: Okay. I'm going to object. That's compound. It also lacks foundation as to his shooting of Eric Rivera. So I think that you can -- you can ask him if he had any conversations after the incident, but I'm going to object to the way it's phrased. It lacks foundation and is argumentative. And -- so he can answer as to whether or not he had conversations after the incident.

MR. CASILLAS: And -- and, Counsel, with all due respect, I suspect that the good sergeant is reasonably competent in English. And your objections honestly are, to me, made to be obstructionist. Okay. And they bordering on coaching. And I would ask that you refrain from those. And to the extent that you are going to make any objections that you just state them and refrain from coaching.

MS. LEE: Okay. Well, no. I don't think that is fair, because number one, I'm not coaching him. I'm entitled to make my objections. And from my experience, when you put in information that lacks foundation, you know, that assumes that the officer actually shot the individual without that foundation and, you know, that -- that information is read back to a jury, that that's not appropriate. That -- and I'm not going to let a transcript stand and be with false information, inappropriate information without foundation.

So I disagree with you. I'm not coaching him. I'm stating my objections for the record, which I'm entitled to do, as you are entitled to do. And so I've instructed him to answer your question with that caveat.

MR. CASILLAS: We'll ask the court reporter to reread the question.

(Record read as follows:

"QUESTION: Same question for Mr. Ramirez: Were you aware of him having been engaged in a use of force incident involving a firearm prior to his contact with Mr. Rivera the night that he was shot and killed?")

MS. LEE: I think it was the question after that, actually.

THE REPORTER: Oh, I'm so sorry.

(Record read as follows:

"QUESTION: Did you ever have any conversations with Mr. Ramirez regarding his shooting of Eric Rivera, after the shooting itself? And I'm referring to conversations after you left the scene of the shooting, the day of the shooting.")

MS. LEE: And once again, I'm going to instruct him to answer that he can answer as to conversations that he had after the incident, but he's not going to adopt the lack -- the question which lacks foundation as to Officer Ramirez's shooting the -- the -- the plaintiff. I'm sorry -- the decedent.

MR. CASILLAS: And it's funny, Counsel, because respectfully, especially after listening to the

question, the -- that -- that is not even remotely implied.

BY MR. CASILLAS:

Q. But my -- my point is this, Sergeant. After the shooting, the day of the shooting, did you ever, ever -- and certainly outside the presence of the attorneys in this case. But did you ever talk to Ramirez about the shooting?

MS. LEE: Okay. And thanks for bringing that up.

Excluding any times that you may have had any discussions that were within the attorney-client privilege. But you can answer, please.

THE WITNESS: No.

BY MR. CASILLAS:

Q. Okay. Same question for Mr. Urrutia. Ever talk to him about that?

A. No.

Q. ++ Okay. Did you ever call them -- I -- I understand that there was -- that they took some time off after the shooting. Do you understand that to be true?

MS. LEE: Well, objection. I'm going to instruct him not to answer as to that, as to privileged information and privacy. And I don't know that he knows

or if they did take any time off, but he's not going to answer that.

MR. CASILLAS: But that's what I'm asking.

BY MR. CASILLAS:

Q. ++ I mean, do you know if they took any time off?

MS. LEE: He's not to going answer that question.

BY MR. CASILLAS:

Q. Assuming that they took some time off, did you call them, just to check in on them; you know, hey, you know, are you -- are you doing okay? Is there anything I can do for you? Any conversations like that?

A. No.

Q. Okay. Now, they were on your watch. Did you actually conduct the briefing that -- during the shift where the shooting occurred?

A. I don't quite understand your question.

Q. Sure. As I understand, Officer Ramirez and Officer Urrutia were working a particular shift that you were overseeing; true?

A. Yes.

Q. Okay. During that shift, the shooting occurred. My question is: Were you present at the briefing that day?

A. Are you talking about roll call?
Q. Yes.
A. Yes.
Q. Okay. And was there any -- to the extent that you might recall, any particular issues? Maybe an emphasis that -- that you were emphasizing with patrol officers during that shift? Was there anything other than just a normal kind of roll call that was conducted that shift, as you sit here today thinking about it?
A. I don't recall what we talked about in roll call that day.
Q. Now, do you remember -- I think you mentioned that you did hear about it over the radio. But do you remember actually hearing that there was a response by Officer Urrutia -- you know what, before we get to that, let me ask you something here.
I want to take you back to the training that you gave as an FTO. Did you ever emphasize, with your trainees, the importance of putting the patrol car in park before exiting the patrol car?
A. No. I don't remember that.
Q. Okay. Have you heard, again, as you sit here today, and -- and when I say have you heard, I mean did you learn through hearing it, maybe reading of it, that there had been instances at the LAPD of patrol officers

exiting their vehicles after not having placed the vehicle in park and having their vehicles roll away?

MS. LEE: Objection. It lacks foundation. It's vague, ambiguous and overbroad. But he can testify if he has any knowledge.

THE WITNESS: I don't have any specific knowledge of any.

BY MR. CASILLAS:

Q. Okay. And -- and I appreciate that. I -- I'm assuming that it never happened to you or any of your trainees while you were training; correct?

A. Not that I can recall, no.

Q. Okay. But my question is -- and I don't want specifically. But had you ever heard that that had happened before at the LAPD?

MS. LEE: Once again, it lacks foundation. But he can answer.

THE WITNESS: I don't recall any specific incidents.

BY MR. CASILLAS:

Q. Did you yourself, as a training officer, tell your trainees -- emphasize it one way or the other, that before exiting their patrol cars, they should place the vehicles in park?

A. No. I never trained them to do that.

Q. Did you ever emphasize to your trainees, when you served as an FTO, that for officer safety reasons it was important when leaving the patrol car to make sure, especially if you're the driver, that the vehicle was in park?

MS. LEE: Objection. That's an incomplete hypothetical. It also lacks foundation. But he can answer.

THE WITNESS: I never gave any specific training for putting cars in park.

BY MR. CASILLAS:

Q. Okay. Did you yourself, as an LAPD officer, ever receive any instruction to that effect; you know, maybe from your own training officer? You know, Brad, you know, before you leave the patrol car, if you're driving it, it's important that you put it in park. I don't mean to be flippant about it, but did you ever get instruction that simple?

MS. LEE: Objection. That's argumentative. And it's an incomplete hypothetical. And it assumes facts.

But go ahead.

THE WITNESS: Most of -- from what I understand, most of the training for putting your car in park you learn before you take your test for your basic

driver's license.
BY MR. CASILLAS:
Q. You would assume so; right?
MS. LEE: Well, objection. It's --
THE WITNESS: So we don't -- I don't have any specific recollection of giving any specific training of putting a car in park.
BY MR. CASILLAS:
Q. In this particular case, did you learn that Mr. Ramirez didn't put the vehicle in park?
MS. LEE: Well, objection. It lacks foundation. It calls for speculation. So unless he has personal knowledge, I'm going to instruct him to only answer as to his personal knowledge.
BY MR. CASILLAS:
Q. I'm asking: Did you learn about it? Did you hear about it? Did you find out about it?
MS. LEE: Once again, it lacks foundation. It calls for speculation. He can answer if he has any personal knowledge that that actually occurred, outside of anything that we may have discussed as attorney-client privilege. So unless he has personal knowledge.
Go ahead.
THE WITNESS: Can you be more specific in your question?

BY MR. CASILLAS:

Q. Yeah. As you sit here today, and certainly not from any source including Ms. Lee or any of the other attorneys, did you ever find out, somebody tell you, that before the shooting of Eric Rivera, the patrol car that the officers were traveling in was not put into park after the officers exited the vehicle and before the shooting?

MS. LEE: So once again, it lacks foundation and it calls for speculation as to whether or not that actually occurred.

MR. CASILLAS: I don't want to know if it actually occurred. We all know that it occurred.

MS. LEE: Okay.

MR. CASILLAS: It was a major screw-up. All right. So I'm sure that everybody there was like laughing about it; right? And -- and my point is, did he ever find out about it.

MS. LEE: Okay. I'm going to have a motion to strike all of your commentary.

MR. CASILLAS: You can't strike my commentary, but go ahead. I'm not -- certainly not going to read it to the jury.

MS. LEE: No. But hold on. But he can --

MR. CASILLAS: The jury will conclude that

themselves.

MS. LEE: He can -- that's unnecessary for your commentary, but I understand why you're making it. So -- but once again, I'm going -- he can answer if he's heard someone say that. But if he has no personal knowledge as to whether or not that is the case --

MR. CASILLAS: Certainly.

BY MR. CASILLAS:

Q. Ever hear that?

A. I didn't have any personal knowledge.

Q. And I get that. We all accept that. You weren't there. Did you ever hear it?

A. I don't recall hearing that.

Q. After the shooting of Eric Rivera, there at the Harbor Division, was there ever any sort of written communication made that you learned about, reminding the police officers there at Harbor Division to ensure that they put their cars in park?

A. No, not that I'm aware of.

Q. Okay. Do you know if there was a discussion, using the Rivera shooting as an example, where during roll call the subject of the importance of putting a patrol car in park was discussed?

MS. LEE: Once again, I'm going to object as to argumentative, as to the word importance of. But he can

answer.

THE WITNESS: I don't recall any specific training or roll call training for putting cars in park.

BY MR. CASILLAS:

Q. I want to take you back to the -- the night of the shooting of Eric Rivera. Do you remember how it was that you learned that a shooting had occurred?

A. I heard it on the radio.

Q. Okay. What do you remember hearing?

A. I remember the broadcast of an officer needs help. Shots fired.

Q. And had you been monitoring that call?

MS. LEE: Objection. Vague and ambiguous and overbroad as to monitoring.

But you can answer.

THE WITNESS: I try to keep an ear open for all the calls that are going out, so I know that -- I remember the call going out. That they're responding to a 415, man with a call gun -- or a 415, man with a gun call. But I -- I just keep an ear open for the radio, so -- but that's for all the officers. So just in general. In general, I'm aware of that they were responding to a call of that certain nature.

BY MR. CASILLAS:

Q. And when you learned of the shooting, obviously

it was a significant event; yes?

MS. LEE: Objection. Vague, ambiguous and overbroad as to significant event.

But go ahead.

THE WITNESS: Yes.

BY MR. CASILLAS:

Q. What did you do?

A. I got up out of my chair and I went out to the scene.

Q. As you -- and you were there at the station at Harbor Division?

A. Yes.

Q. Okay. And generally speaking, what -- what is the patrol region; you know, the north, south, east, west, boarders of that region? And I won't hold you to the meticulous details, but generally.

A. Because the shape of the division is not -- is not a square box.

Q. Right.

A. It's a weird long shape, with a big long tail.

Q. Going up, sure.

A. So we go from 182nd Street on the north, all the way down to the ocean on the south.

Q. Yeah.

A. Western, pretty much on the west side and --

Q. Of Long Beach?
A. No.
Q. I'm sorry. The west side?
A. The west side. And then on the -- on the east side, again it's a very irregular shape. So bordering Long Beach and port areas and --
Q. When you -- on your way to -- and how long did it take you to get to the actual scene of the shooting?
A. Driving Code 3, a few minutes.
Q. Did you have any communications with anybody on the scene as you drove out there?
A. No.
Q. And did you drove -- did you roll out there Code 3 alone?
A. Yes.
Q. And were there other supervisors that you knew of that were also rolling out there?
A. Yes.
Q. Who were those? Talmadge?
A. I was aware of Sergeant Talmadge.
Q. And did you -- were you the first supervisor on the scene?
A. No.
Q. Okay. Sergeant Talmadge?
A. Yes, he was the first supervisor on the scene.

Q. Okay. And when you got there, you activated your body camera?
A. Yes.
Q. And why is that?
A. Because that's policy.
Q. Okay. And obviously, at that point there was no command post set up; correct?
A. Not at that time, no.
Q. And did you approach from the east, north or south?
A. I was coming -- I was coming from the south, going -- going north.
Q. And when you get there -- do you remember where you parked?
A. I parked on the east side of the street, just -- just north of Denny.
Q. Okay. And did you see and -- and before you got out of your patrol car, what information did you have about what had taken place?
A. I realized that there had been shots fired and one of my officers was down.
Q. And how did you learn that?
A. Because it was broadcast over the radio.
Q. And the officer that was down, who did you learn or who did you understand was the officer that was

down?

MS. LEE: Well, objection. Vague as to time.

But you can answer.

THE WITNESS: On my way there, I didn't know which officer was down.

BY MR. CASILLAS:

Q. And did you understand -- was it communicated to you that the officer that was down had been shot?

A. Yes.

Q. Okay. And do you know who it was that communicated that to you?

A. I know one particular officer that told me. I believe Sergeant Talmadge told me.

Q. Again, as you're driving there; correct?

A. Oh, no. Not -- that's when I arrived at scene.

Q. All right. What I'm doing, Sergeant, and I don't mean to be -- what I want to do is kind of chronologically discuss the things that you did and the information that you had.

At this point, were -- at the point that you just arrived and before you get out of your patrol car, did you know that one of your officers had been reported down?

A. Yes.

Q. Okay. And I think you told me you didn't know

which one. And before you got out of your patrol car, did you learn that that officer was -- was down? And let me ask this, I guess, just to make sure we're using the same questions. The first time I can ask you for a definition.

An officer down, what -- what does that mean, as you use the term?

A. That means an officer has been seriously injured and requires medical attention.

Q. And you arrived there at the location. How was it that you learned that one of the officers was down?

A. That was broadcast before I got there.

Q. And before you got out of your patrol car, had you learned that one of the officers had been shot?

A. I believe that's what was broadcast.

Q. And did you ever determine who it was that had reported that an officer had been shot?

A. I don't remember. I don't know if I knew, before I got out of the car, what officer broadcast that.

Q. Okay. And -- and now opening it up to just your general knowledge of that evening, did you learn that evening who it was that had broadcast that an officer had been shot?

A. No. I don't know who -- at that time I didn't

know what officer -- or which officer broadcast that.

Q. And did you ever speak to -- and by the way, as you traveled there, did you hear any broadcast made directly from any of the officers on the scene?

A. Well, there was, you know, there was multiple broadcasts from the officers at the scene.

Q. Okay. And were you ever able to distinguish any broadcasts coming from a particular officer?

MS. LEE: Objection. That's extremely overbroad.

But you can answer.

BY MR. CASILLAS:

Q. You are driving to the scene. I mean, did you hear a broadcast, and maybe because Mr. Urrutia has a certain way of speaking, that you say, oh, that's Urrutia?

A. I don't remember knowing exactly what officer said what.

Q. Okay. And when you found out that there was an officer down, was that, as a supervisor, significant to you?

A. Yes.

Q. Why is that?

A. Because that's one of the guys that I'm tasked with trying to send home safe every night.

Q. And obviously you take your job very seriously. And I'm sure hearing that caused you serious concern?

A. Yes.

Q. Okay. And is it fair to say because that information is -- is very, very significant, as you've mentioned, that you would expect nobody to lie about it, would you?

A. No.

Q. Okay. And in fact, if somebody lied about that, having been shot, you would take that as a very significant violation of, maybe, trust?

MS. LEE: Well, objection.

THE WITNESS: Yes.

MS. LEE: That -- it's -- I don't understand your question. Because you started off with officer down, and now you're talking about officer shot. So can you please be more clear.

MR. CASILLAS: Ms. Reporter, would you read back the question.

(Record read as follows:

"QUESTION: And in fact, if somebody lied about that, having been shot, would you take that as a very significant violation of, maybe, trust?")

MS. LEE: Well, objection. That's vague, ambiguous and overbroad.

But you can answer.

THE WITNESS: If I found out somebody lied about that, I'd be -- I'd be upset.

BY MR. CASILLAS:

Q. Why is that?

A. Well, because that's a -- our -- our ethos of having officers go home to their family at the end of the night is one of our paramount concerns. I've had three officers that I have personally worked with killed in the line of duty.

Q. I'm sorry.

A. So when I learn that one of my officers is down, that they've been shot, it's a significant thing. I wouldn't -- I wouldn't expect any officer to lie about something like that.

MS. LEE: We've gone about an hour. Can we take a ten-minute break?

MR. CASILLAS: Yeah. No, in fact, that's good break.

And you should know, Sergeant, should you ever want to take a break --

THE REPORTER: Are we off the record?

MR. CASILLAS: No, not yet.

If you want to take a break, this isn't a marathon. Okay. And if you want to take a break for whatever reason, just let me know. Okay?

THE WITNESS: Understood.

(Recess taken from 2:25 p.m. to 2:43 p.m.)

BY MR. CASILLAS:

Q. Sergeant Hearn, one last question about that FTO period, where you were training new police officers for the LAPD. In discussing the use of deadly force, did you ever discuss, either directly or as a general theme, the notion of the sanctity of life with your trainees?

A. Yes.

Q. Okay. And how would you introduce the subject or what is it that you would discuss with them?

A. Well, it always comes up that, you know, even though we work in a neighborhood of the city that is a rough neighborhood, there's a lot of fine and really nice, decent folk that live there. And you know, everybody deserves as much consideration as you can give them, depending on the circumstances.

Q. What do you mean by that?

A. Basically just what I said. That, you know, there's good folks down there. There's bad folks down

there. And you treat everybody with respect, you know, depending on the situation and how they treat you.

Q. And -- and would you try to, you know, convey a respect for life?

A. Yes.

Q. And what would you say to them about respecting life?

A. That every life is precious.

Q. Is that something you were taught there? I mean, most people just generally have -- have that general notion, to use your word, ethos. But as you were coming up, was that something that the LAPD, through its training officers and staff, would teach you?

A. Yes. They teach us a reverence for life. That's one of our mottos -- or one of our tenets.

Q. Now, you don't have to be a good person to have your life revered, do you?

MS. LEE: Objection. It's argumentative. It's vague, ambiguous and overbroad.

BY MR. CASILLAS:

Q. No. And the reason I ask the question is, there's some good people out there and some bad people out there. But you know, good people sometimes have bad days. My -- my point is this. Is that -- I mean, is

that something that the LAPD taught you, that, you know, there were some good people out there and -- and bad people out there, and that was a relevant factor in deciding or in considering the use of force?

MS. LEE: You're asking if that's part of his training?

MR. CASILLAS: Yes.

MS. LEE: Okay. go ahead.

THE WITNESS: No. I think all lives are -- are precious. It just -- I don't think there's a mother who doesn't love their child, but that doesn't -- that doesn't change the fact we have to deal with the situation as it unfolds.

BY MR. CASILLAS:

Q. The -- going back to the chronology, as we were going through your experience there at the scene of the shooting, you -- you park. And I think Sergeant Talmadge was already there?

A. Yes, he was already at the scene.

Q. And when you drove there, were you in a patrol car or an SUV?

A. That was an SUV that I was driving.

Q. And you park. And do you draw your weapon?

A. No.

Q. Okay. And by the time that you got there, had

you heard or learned that the suspect was down?

A. Yes.

Q. Okay. How did you learn that?

A. I believe that was broadcast as well.

Q. And was there any communication to you, again, before you got out of the vehicle, that the suspect that was down was armed?

A. I remember the broadcast that -- that the officers were involved in a shooting, and that they were there on a 415 man with a gun call. I don't recall any specific portion of the broadcast that said that he had a gun.

Q. Okay. And is it safe to say that when you exited your vehicle, you had the conclusion that there was a suspect down and that he was armed and that he was armed with a firearm?

MS. LEE: Objection. Compound.

But go ahead.

THE WITNESS: You have to ask a different question, Counsel. That's supposition.

BY MR. CASILLAS:

Q. You know, like so many things in life, when, you know, we go into an experience, you know, we suppose certain things. Did you -- I mean, did you have in your mind that thought, that there was a suspect down and

that there was a gun around?

MS. LEE: Objection. It's compound.

But go ahead.

THE WITNESS: I knew there was -- the officers were responding to a man with a gun call and that there were shots fired and one of my officers was down.

BY MR. CASILLAS:

Q. And when you arrived there, and again before getting out of the patrol car, did you know whether or not the suspect that was down was dead?

A. No.

Q. Did you assume that he was alive?

A. There was no way for me to tell one way or another.

Q. Okay. And at least -- at the very least for the sake of your own safety, did you assume, until you learned otherwise, that he was alive?

MS. LEE: Well, objection. That's compound. It's also vague, ambiguous and overbroad. And it calls for speculation.

But go ahead.

THE WITNESS: There was no way for me to know if he was dead or not.

BY MR. CASILLAS:

Q. And respectfully, that's not the question I'm

asking. I'm asking: For the purposes of officer safety, and you talked earlier about the -- the significance of officer safety and the very heavy burden that you, as a supervisor, have, you know, in keeping with your ethos to make sure your officers get home alive. And because of that, I -- I'm assuming that, you know, until you knew otherwise, you were going to assume that the suspect was armed with -- with a gun and was alive. Is that a safe assumption?

MS. LEE: Well, that's extremely compound. And it's extremely vague and overbroad. But he can answer if he believes --

THE WITNESS: Can you narrow the question down?

BY MR. CASILLAS:

Q. Yeah. Did you -- did you make any assumptions about there being a firearm there onsite?

A. I can only assume what I heard from the radio. So if -- from the call -- the nature of the call, the comments of the call and that there had been shots fired, there was a high likelihood that a gun had been involved.

Q. Yeah. And -- and because of that, is it safe to say that in your own mind, that that was probably the most significant threat to officer safety involving that incident? Guy's alive. Still got a gun. True?

MS. LEE: Objection. That's very vague and ambiguous.

But you can answer, if you understand it.

THE WITNESS: That would be a high stress situation or a high concern when you're responding to a call like that. If I have a call of a man with a gun and you see a man with a gun, then, you know, that's -- that's a dangerous call.

BY MR. CASILLAS:

Q. And so when you get out of your patrol car, are you concerned about being shot by the individual, by -- by the suspect involved in this call?

A. My major concern was not for my safety, but for the safety of everybody there at the time.

Q. And that -- one of the concerns about safety is, again, still having a live armed suspect there on the scene; yes?

A. That's a possibility.

Q. Any other possibility of any other threat that you were dealing with?

MS. LEE: Well, objection. That calls for speculation. It lacks foundation. But he can answer if he had any other concerns at that time.

THE WITNESS: You'd have to ask that -- I don't understand.

BY MR. CASILLAS:

Q. Well, you -- you're very concerned about the safety of your other officers -- of your officers. And as I understand it, the primary threat was an armed suspect. Was there any other threat to officer safety when you rolled up -- when you got there, that you were concerned about?

MS. LEE: Objection. That misstates his testimony. And it's compound.

But go ahead.

THE WITNESS: There was no -- there was no other radio calls of any other activity that would draw my concern for safety at that time.

BY MR. CASILLAS:

Q. So -- so the number one -- in fact, the only threat out there that you were aware of was the possibility of a suspect being armed; right?

MS. LEE: Well, objection. That's -- that misstates his testimony. It also is vague and ambiguous.

But go ahead.

THE WITNESS: My concern was that we had a suspect down that was possibly armed.

BY MR. CASILLAS:

Q. When you get out of your patrol car, do you --

had you identified officer -- or excuse me -- Sergeant Talmadge yet?

MS. LEE: Objection. Vague as to identified.

But go ahead.

BY MR. CASILLAS:

Q. I mean, you drive up. You know he's there already. You know he's a prominent figure, respectfully. And did you say, oh, there's Talmadge?

A. Yeah, I saw -- I saw Sergeant Talmadge there.

Q. Okay. And when you get out of your patrol car, do you go over to Sergeant Talmadge?

A. We approached each other.

Q. And did he -- did you -- and had you talked about the incident at all yet with Officer Talmadge before you made that contact with him out on the street?

A. No.

Q. Okay. And when you -- you two meet up there -- and it was on the street somewhere; yes?

A. Yes. It was the middle of the boulevard.

Q. And did you -- did you ask him a question, or did he convey any information to you? Who started the conversation, if you remember?

A. I don't remember which one of us started the conversation.

Q. All right. And I -- I'm assuming, just out of,

you know, general kind of communication skills, that -- did you inquire with him what -- what was going on? Something like, hey, what do we got? What's going on?

A. Probably around something like that.

Q. What did he tell you? What do you remember him telling you?

A. Basically he was just re-explaining the scene as I was seeing it for the first time.

Q. And did he point out a suspect?

A. Yes.

Q. Did you see the suspect?

A. I could see where the police car had ended up, and that there was a suspect under -- near the bumper -- the front bumper of the vehicle.

Q. And he clearly was underneath the vehicle; there's no doubt about that?

MS. LEE: Well, objection. It's vague and ambiguous as to clearly was under the vehicle. But he can testify to what he saw.

THE WITNESS: I could see that there was somebody up near the front of the vehicle.

BY MR. CASILLAS:

Q. And did he -- his body appear to be located underneath the front portion of the patrol car?

MS. LEE: It may call for speculation, but he

can testify to what he saw.
BY MR. CASILLAS:
Q. That's exactly what I'm asking.
A. It appeared that he was under -- partially under the car.
Q. The vehicle itself was up on the sidewalk, wasn't it?
A. Yes.
Q. And overhead lights were on; if you recall?
A. I'm not sure if they -- what setting the light was on. We have three different settings on the car. I don't know which setting it was. I don't recall what setting it was on.
Q. Headlights on, as far as you could tell?
A. As far as I could tell.
Q. Spotlight on, as far as you could tell?
A. I don't recall.
Q. The -- it had to be the darndest thing, and I'm being respectful. That you come up to the shooting scene. The suspect is underneath the car. The car is up on the sidewalk. And by the way, the patrol car was against a fence; right?
MS. LEE: Well, objection. It's -- it's vague and ambiguous as to patrol car was up against a fence. But he can testify as to what he saw.

THE WITNESS: It looked to be stopped up against the -- the carport closure, whatever -- grate or whatever it was.

BY MR. CASILLAS:

Q. Like a door maybe? Wrought iron?

A. I think it was a wrought iron fence or gate.

Q. When I say that it was the darndest thing, I mean was it curious to you, I guess is a better way to put it, that you had these circumstances?

MS. LEE: Objection. It's vague and ambiguous as to was it curious to you. But he can answer.

THE WITNESS: Was there a question in there, specifically?

BY MR. CASILLAS:

Q. Yeah. I mean, like -- I mean, you get there. You look at it. The suspect is underneath the car. The car is on the sidewalk. It's usually not where you find cars. It's against a -- a fence. You had to think, shit, what the hell happened here? And when I say curious, I'm speaking in -- you know, as normal people talk. But I mean, did you have a sense of that? That you were curious to know how it was that the circumstances led to what you were seeing?

MS. LEE: Objection. It's completely compound. Lacks foundation. Misstates the testimony.

It's argumentative. I don't even understand what the point of the question is.

But go ahead.

BY MR. CASILLAS:

Q. The point of the question is -- first of all, had you ever come across a scenario like this, a suspect having been shot, underneath a patrol car, on the sidewalk?

A. I had never come across that.

Q. Okay. Had you ever heard of anything like that happening involving an LAPD officer?

A. At that time, I didn't give it that much thought, sir.

Q. I get that. And -- and I guess the reason I'm asking the question is because -- was it surprising to you to see these circumstances?

MS. LEE: Objection. Once again, it's -- it's compound. It's argumentative. I don't see what the point of the question is regarding whether or not it's surprising to him or not.

But you can answer.

THE WITNESS: I didn't give it that much thought.

BY MR. CASILLAS:

Q. When you finally made contact with Sergeant

Talmadge, after seeing what you had seen there, I mean did you ask him like, jeez, what the hell happened? Or words to that effect?

A. No.

Q. What did you ask him? What do you remember asking?

A. I remember asking him -- I believe I asked him, you know, where's the suspect. And he pointed. Which I could turn and see. Then I asked him where our officer was that was injured.

Q. And did it appear to you there when you were having that conversation and you were directed at the suspect underneath the vehicle that the suspect was dead?

A. I had no way of knowing.

Q. Okay. I'm not asking for a -- a medical conclusion. But based on what you saw there -- first of all, did you ever see him move?

A. No, I didn't see him move.

Q. Did you ever hear him say anything?

A. No.

Q. Okay. Were you close enough to determine whether or not he was breathing?

A. No, I wasn't close enough.

Q. Did you do anything to see if he needed medical

attention?

MS. LEE: Objection. That calls for a medical conclusion. Calls for speculation.

But you can answer.

BY MR. CASILLAS:

Q. Let me rephrase the question. You -- you're trained in CPR; yes?

A. Very basic.

Q. Okay. You're also trained in basic first aid; yes?

A. Very basic.

Q. And I'm sure that in the 12 or 13 years, you had the opportunity to provide basic first aid to suspects that were injured?

A. I don't recall if I ever provided any first aid.

Q. In this particular case, did you do anything to determine whether or not the suspect underneath the car was alive?

A. No, I did not.

Q. Why not?

A. Well, one, he had not been cleared to see if he was in possession or could be in possession of a weapon.

Q. Right. Anything else?

A. Well, until -- until we had an arrest team or a

team ready to go up and clear the scene, then I wasn't going to approach on my own.

Q. And did you ever approach him?

A. Yes.

Q. Okay. And when you approached him -- and by the way, how close actually did you get to him?

A. Maybe 8 feet, somewhere around in that area.

Q. By that point, was it determined that he was dead?

MS. LEE: Well, objection. Determined by whom?

MR. CASILLAS: Anybody. I don't care.

MS. LEE: It may call for a medical conclusion. But you can go ahead and answer if you were ever told that he was deceased.

THE WITNESS: Once the fire department came up and made their assessment, then they let us know that he was deceased.

BY MR. CASILLAS:

Q. Had you gotten to that position, 8 feet of him, before the fire department got there?

A. No.

Q. Were you --

A. Let me retract that. I went up with a group of officers. And -- because the fire department won't go up until they make sure that their safety is -- is

covered.

Q. Right.

A. Then as soon as it is, then the fire department -- I stood there while the fire department came up and made the determination.

Q. Okay. And that team of officers that went up to make sure it was safe to approach the suspect underneath the front of the patrol car, were you the only supervisor in that team?

A. No.

Q. Was it you and Sergeant Talmadge?

A. Talmadge.

Q. Talmadge?

A. Yes.

Q. And what did you do -- and did you come to the conclusion eventually, as part of that team, that it was safe to approach him?

A. Yes.

Q. And what observations did you make? What information did you kind of see there at the scene that suggested to you that it was safe for the fire department to approach?

MS. LEE: Objection. That's compound.

But go ahead.

THE WITNESS: One of the instructions we had is

to do a cursory -- have one of the officers do a cursory pat-down to make sure there was no weapons that they could feel or see. And then allow the FD, as quickly as possible, to come up and render aid.

BY MR. CASILLAS:

Q. I'm certain that approaching that suspect who may have been armed was something that, for you, was -- I mean, did you consider it risky? I mean, you got a guy underneath the car, might be armed, might be still alive. Was -- was that going through your mind? Still might be alive, still might be armed?

MS. LEE: Objection. It's compound. And it's somewhat argumentative.

But go ahead.

THE WITNESS: Well, we have to approach to make sure that -- that there's no longer a threat. So we always assume that there's a threat until you can verify that there is or not.

BY MR. CASILLAS:

Q. As you were -- my recollection of the photographs of the incident is that he was lodged underneath the vehicle with a portion of his upper torso, maybe his head, next to or contacting the front left wheel of the patrol car.

Do you remember that as being the suspect's

position?

MS. LEE: Objection. It's compound and lacks foundation. It may misstate the evidence, but he can testify as to what he saw.

THE WITNESS: I don't -- I don't remember paying that much attention to his exact position.

BY MR. CASILLAS:

Q. Right.

A. At that -- at that particular moment.

Q. Did you look for a gun?

A. No.

Q. Take a couple steps back. That team that was going to approach the suspect underneath the front end of the vehicle to determine whether it was safe or not for the fire department to contact the suspect, where did you start your approach to the suspect?

A. I believe we had -- they had the vehicle that was stopped up on the sidewalk. And then they had another the police car behind it and another police car triangulating. I believe we started near the police car that was --

Q. North and east of it?

A. Yeah, behind it.

Q. And you, Sergeant Talmadge and two other officers?

A. I don't recall how many other officers.
Q. And before deploying out to go and make contact with the suspect to confirm that it was safe for the fire department to do so, did you have any conversations about what you were going to do?
A. As far as what?
Q. You know tactically, how you're going to approach; somebody is going to be cover, somebody was going to do this, that or the other. Was there any discussion along those lines, as to what each member of the team that would be approaching the suspect would do?
A. I didn't set that up, no.
Q. And what was your assignment, to the extent that you may have had one, as part of that team that would be approaching the suspect?
A. My assignment at that time, as the incident commander, was more general and overview instead of being specific -- specific jobs.
Q. You're actually clairvoyant. I was going to ask you in terms of the hierarchy there. By the point that you were approaching the suspect underneath the front end of the car, what was the supervisory hierarchy? Was it you and Talmadge at the same level? Were you above Talmadge? Was Talmadge above you? Was there a captain already on the scene?

MS. LEE: Okay.

BY MR. CASILLAS:

Q. Maybe a lieutenant? What -- what was the -- for lack of a better word, the on-scene command or supervisory structure?

MS. LEE: Okay. I'm going to object. That's vague and ambiguous. And for my clarification, are you asking as to the hierarchy for the entire scene or while they were approaching?

MR. CASILLAS: For the entire scene.

MS. LEE: For the entire scene. Thank you.

Go ahead.

THE WITNESS: I was the incident commander. So that would put me in charge of the overall scene.

BY MR. CASILLAS:

Q. Okay. And was that by virtue of your rank?

A. Both rank, and that's my job at the time, being the watch commander.

Q. The -- the distance from -- and -- and was it your decision to have this team go and -- and make contact with the suspect to make sure it was safe?

A. Well, we knew we had to approach. So that was -- that was a given, that we were going to have to do that.

Q. And was the -- I -- I -- I'm assuming that

there were two concerns. One, is he alive. And two, if he is alive, is there a gun around that he could access?

A. Yes.

Q. And before you went out to make contact with somebody that was potentially alive and potentially armed, did you ask either of the two officers that were involved in the shooting to describe the gun that they believed the suspect was in possession of? Were you dealing with a .22? Were you dealing with a sawed-off shotgun? Were you dealing with a .38? Was it a revolver? What is -- did you ask for any information regarding the firearm?

A. No.

MS. LEE: Objection. It's compound.

But go ahead.

THE WITNESS: No.

BY MR. CASILLAS:

Q. Did you have access to the two officers?

MS. LEE: Objection. Vague and ambiguous and overbroad as to access.

BY MR. CASILLAS:

Q. Yeah. I mean, were they around that you could have said, hey, Ramirez, what kind of gun did he have?

MS. LEE: Same. Vague, ambiguous and overbroad as to were they around so that you could talk to them.

But go ahead. You can answer.

THE WITNESS: They were at the scene. But at that time, the only -- the only one that I knew was not part of that group was Urrutia.

BY MR. CASILLAS:

Q. And was he available to talk?

MS. LEE: Objection. Vague, ambiguous and overbroad as to available. Calls for speculation.

But go ahead.

THE WITNESS: I didn't ask him any other questions, because he was the one that was injured. So I didn't -- I didn't want to ask him.

BY MR. CASILLAS:

Q. Bother him?

A. When he was -- when I believe he was shot.

MS. LEE: Well, objection -- and objection as to bothered.

But go ahead.

BY MR. CASILLAS:

Q. Did you ask Ramirez any questions about the type of firearm that he had -- one, whether or not he even saw a firearm?

MS. LEE: Vague as to time.

BY MR. CASILLAS:

Q. We're talking about the time before you deploy

out to contact the suspect to make sure it's safe for the fire department.

A. At that time, I wasn't aware that Ramirez had been involved in the shooting.

Q. Okay. Did you ask anybody there on the scene any questions to determine what sort of firearm was involved, before approaching the suspect underneath the front end of the car?

A. No.

Q. Okay. Why not?

A. Because it doesn't make a difference.

Q. I don't understand that, respectfully. Why doesn't it make a difference?

A. Well, if the suspect had a .22 or he had a .38 or a .45, they're all dangerous firearms. So it wouldn't matter what kind of firearm it was.

Q. Well --

A. We would approach and make sure that it's safe, regardless of what kind of firearm it is.

Q. I'm assuming that there was a fire -- firearm involved. And it appears, from your answer, that you assumed there was a firearm involved; yes?

A. That's what we were going to determine.

Q. Okay. Did you ask if there was a firearm involved?

MS. LEE: Objection. It's asked and answered. And vague and ambiguous. But -- as to who, but --

BY MR. CASILLAS:

Q. Whether it was Talmadge when you got there, whether it was any of the officers that were present there, did you ask anybody, hey, is there a gun here? Is there really a gun here?

MS. LEE: Objection. It's argumentative.

BY MR. CASILLAS:

Q. It is argumentative, but the question is to that effect.

A. No, I did not.

Q. Did you ever see a gun there?

MS. LEE: Asked and answered.

Go ahead and answer it again.

THE WITNESS: No.

BY MR. CASILLAS:

Q. Did you see a toy gun there?

A. No.

Q. That evening, did you -- in any of the work -- and by the way, when did you leave the scene?

A. I don't know the exact time, but it was hours later.

Q. Were you there when the vehicle was picked up off of the body of Eric Rivera?

A. No.
Q. Okay. You had left by then?
A. Yes.
Q. Your responsibility for the safety and welfare of your officers in keeping with that ethos, to do what you can to make sure they go home after the shift, I -- I'm assuming that you were concerned for the well-being of Mr. Urrutia?
A. I'm concerned for the well-being of everyone there.
Q. Well, but maybe him particularly more because he may have been shot; right?
MS. LEE: Well, objection. That misstates his testimony.
But go ahead.
THE WITNESS: Well, there's more than one person injured. I was concerned for everybody there.
BY MR. CASILLAS:
Q. And as far as the persons that were injured, certainly the suspect; right?
A. It was -- it was evident that he was injured; yes.
Q. Mr. Urrutia, you knew, had been injured. I think you believed he was shot; correct?
MS. LEE: Objection. That misstates the

testimony.

But go ahead.

THE WITNESS: At that time I believed he was shot.

BY MR. CASILLAS:

Q. And did you know where he was shot, where he had reported to have been shot?

A. I believe it was his right arm.

Q. And how was it that you learned that he had reported having been shot in his right arm?

MS. LEE: Well, objection. That misstates the testimony and lacks foundation that he ever reported that, but --

MR. CASILLAS: I'm not asking if he reported it. I'm asking how he learned it.

MS. LEE: But you're asking him where he -- how he learned that he reported that he was shot. And there's no testimony that he ever reported that. So I think it's fair that you can ask him, you know, if he learned information regarding Officer Urrutia being shot and, you know, how he learned that information. But there was no information that Officer Urrutia reported himself that he was shot that has been elicited.

But you can answer in that regard.

MR. CASILLAS: Yeah. And I appreciate the

help.

BY MR. CASILLAS:

Q. I mean, you got information that he may have been shot. How did you learn that?

A. A couple of sources. One was a broadcast.

Q. Okay. And did that indicate that he had been shot in the arm?

A. It just indicated that he had been shot, I believe.

Q. Okay. So the broadcast. Anything else?

A. There was another officer at the scene that told me that he had been shot in the arm.

Q. Do you remember who that was?

A. That would have been Officer Lopez.

Q. First name?

A. I'm trying to remember. I believe it's Enrique, is his first name.

Q. By the way, do you know an Officer Adolph Rodriguez?

A. Yes.

Q. Was he present that night?

A. No. I don't remember seeing him.

Q. The -- your best estimate of time, of the time that elapsed from the time that you exited your patrol car -- your patrol vehicle upon arriving on scene until

the time that you -- you and the team that was checking on the suspect, actually got to him and he was patted down, how much time elapsed?

MS. LEE: Well, wait a minute. Objection. It lacks foundation. It's compound as to when he was patted down.

But you can answer as to the time between the time you exited your patrol car and approached.

THE WITNESS: It's hard to tell. A few minutes. I don't know. Again, I didn't check my watch to see what time so --

BY MR. CASILLAS:

Q. I got that.

A. It would be just speculation.

Q. Can you give me your best estimate as to the amount of time that might have transpired.

MS. LEE: Well, I don't want him to guess. Based upon his answer, I don't think he knows.

But if you have an approximation, you can give it to him.

THE WITNESS: It would only be a best guess. Maybe five minutes.

BY MR. CASILLAS:

Q. And in those five minutes, did you inquire about Mr. Urrutia's condition?

A. Yes.
Q. And who did you ask?
A. Well, you want to be specific about his condition?
Q. Yeah. I mean, you got a report. You show up. You've got a -- by the time you show up, you have a report that one of your officers has been shot. I'm assuming that was of great concern to you. You know, in those five minutes or so that transpired, did you ask anybody, hey, how is Urrutia or words to that effect?
A. No, I didn't ask anybody.
Q. Okay. Did somebody volunteer that information to you?
A. They volunteered that he had been shot in the -- in the arm.
Q. Yes. Mr. Lopez?
A. Yes.
Q. And did you ask about his condition, say, is he all right?
A. I didn't ask Mr. Lopez. I asked Mr. Urrutia.
Q. Okay.
A. Or Officer Urrutia.
Q. So you walk over to him?
A. Yes.
Q. And was he already on the ground there?

A. He was -- he was sitting. He was seated on the -- on the street, with his back against the bumper of a police car.

Q. What did you ask him?

A. I touched him on the leg. He had his hand clasped over his arm. And I just touched him on the leg. And we made eye contact. And I asked him, hey, how are you doing? And he said, I'm okay.

Q. Did you confirm that he had been shot?

MS. LEE: Objection. It's vague, ambiguous and overbroad as to confirm, but --

BY MR. CASILLAS:

Q. Did you say, hey, have you been shot?

A. No, I didn't ask if he had been shot. I just asked him how he was.

Q. And he mumbled, as you described. What did you do next?

A. I got up and continued doing what I needed to do.

Q. Was he bleeding?

A. I couldn't tell.

Q. Do you remember if he had a short-sleeved or a long-sleeved shirt?

A. I believe he had short sleeves.

Q. Could you see any blood?

MS. LEE: Objection. Asked and answered.

But go ahead.

THE WITNESS: Not that I can recall, no.

BY MR. CASILLAS:

Q. Were you concerned that maybe the bullet had severed an artery and he needed immediate attention?

MS. LEE: Objection. It's compound. It's argumentative. Assumes facts.

But go ahead. Did you have a concern -- that concern?

THE WITNESS: No. I didn't think he was going to bleed out or anything.

BY MR. CASILLAS:

Q. Did -- after you confirmed -- did you make the conclusion that it was safe for the fire department to approach the subject underneath the front end of the patrol car?

A. After the officers had cleared the scene, yes.

Q. Okay. And again, this is at that point in time where you're within 8 feet of him with that team of officers that approached; correct?

A. Correct.

Q. And what information was conveyed to you or did you observe that told you it was safe?

MS. LEE: Objection. It's compound.

But you can -- you can answer.

THE WITNESS: Well, the officers had patted him down and, you know, stepped back. And I don't recall if one of them had said cleared or anything like that. But the indication of it was safe to approach. And the fire department was right there.

BY MR. CASILLAS:

Q. Did you observe anybody looking under the vehicle for a firearm?

MS. LEE: Did he observe anybody?

MR. CASILLAS: Yes.

MS. LEE: Okay. Go ahead.

THE WITNESS: No, I did not.

BY MR. CASILLAS:

Q. And again, as part of that activity there, did they -- did you make any observations that suggested to you that the suspect was alive?

A. Again, I have no way of knowing if he was or was not.

Q. And I -- I guess my question more specifically is: Did you attempt to make any observations to determine if the suspect was alive?

MS. LEE: Objection. I don't even under- -- attempt to make any observations?

BY MR. CASILLAS:

Q. Yeah. I mean, it's real simple. Did you look to see if he was breathing, for example, or any observations along those lines, to pick up information from what was there present that would suggest to you that he was alive?

MS. LEE: Objection. Asked and answered. It's -- it's extremely vague and ambiguous and overbroad. And it's compound.

But go ahead.

THE WITNESS: I relied on the department -- the fire department's assessment.

BY MR. CASILLAS:

Q. Okay. No, no, no. That -- I get that. I get that. But did it make -- I guess a better question is: Did it make a difference to you whether or not he was alive or dead?

MS. LEE: Well, objection. That's argumentative. And vague and ambiguous and overbroad as to, does it make a difference. It's vague as to time. At what point?

BY MR. CASILLAS:

Q. When you were there approaching, did it make a difference to you -- and I'm not being argumentative -- but tactically, whether or not he was alive or dead? Had to; right? I mean, dealing with a dead guy versus

dealing with a live guy?

MS. LEE: Well, objection.

BY MR. CASILLAS:

Q. Tactically, they makes a difference, doesn't it?

MS. LEE: Objection. It's -- it's extremely compound. It's vague, ambiguous and overbroad. I really don't understand your question. I'm not trying to argue with you. I just -- I don't understand it on how to object to it or even advise him. But if he understands it, he can answer your question.

BY MR. CASILLAS:

Q. Does it make a difference?

A. Maybe you can make it more specific.

Q. Yeah. And it's real simple. Okay. You're approaching a guy that might be alive and armed with a gun. You told me earlier that was a concern; correct?

A. Correct.

Q. Okay. My question is this: Did it make a difference, tactically, if he was alive or dead? And when I say tactically, I'm talking about how you would approach.

A. I believe we approached as cautiously as we could and as tactically soundly as we could.

Q. Okay. And you say tactically sound. What was

it about your approach that leads you to the conclusion that it was tactically sound?

A. I don't quite understand what you're asking.

Q. You said it was tactically sound. What did you do that was tactically sound? How is that?

A. We approached -- the officers approached. There was officers that had their guns drawn in case, you know, that was needed.

Q. Uh-huh.

A. They approached the suspect. And when they could pat him down and verify that there was no gun in his hand, then it was safe for us to allow the fire department to come in and make an assessment -- a medical assessment.

MS. LEE: I'm sorry. Can we -- I have to take this. Can we take a five-minute break, please?

MR. CASILLAS: Sure. Let's go off.

(Recess taken from 3:25 p.m. to 3:30 p.m.)

MR. CASILLAS: We're back on the record.

BY MR. CASILLAS:

Q. Did the officers -- did you receive information from any of the officers that actually contacted the suspect underneath the front of the car that he was armed?

A. No.
Q. Okay. Did you receive any information from those contacting officers that the suspect was not armed?
A. Yes. They said it was clear, that the FD could come in.
Q. And did you take that as meaning that they had looked for a gun, and there was none present?
MS. LEE: Objection. It calls for speculation. Lacks personal knowledge.
But if you can --
BY MR. CASILLAS:
Q. My question isn't about speculation. It's: Did you yourself, when they told you it's clear, did you take that as meaning there's no gun there?
A. No.
Q. Okay. When they told you clear, what, if anything, was conveyed to you or did you understand with respect to the presence of a firearm?
MS. LEE: Objection. That's compound.
THE WITNESS: Can you break down exactly what you mean?
BY MR. CASILLAS:
Q. I'm not breaking down anything. It's just a real simple question. Did you, when they told you it

was clear -- and again, you'd been worried about there being a gun present. What did you take that as to mean -- what did you take that as to mean, with respect to whether or not there was a gun present?

A. My -- my meaning of that was that he did not have a gun in his hand, if there was one there.

Q. Okay. And in light of that, what, if anything, did you do to determine if there was a gun there?

A. That was not my job to determine if there was a gun there or not.

Q. Whose job was it?

MS. LEE: Objection. It may call for speculation.

BY MR. CASILLAS:

Q. I mean, you're the principal supervisor in charge. I'm going to assume that you knew -- if it wasn't your job to determine whether there was a gun there, that you knew whose job it would be. Whose job was it?

MS. LEE: You can answer if you know. It may call for speculation. Go ahead.

THE WITNESS: Well, once -- once the fire department pronounced that he was dead, then it was up to FID.

BY MR. CASILLAS:

Q. And --
A. That's the Force of Investigation Division.
Q. Before you allowed the fire department to contact the suspect underneath the front of the car, did you yourself check to see if there was a gun in his immediate facility -- vicinity?
MS. LEE: Objection. It misstates the testimony that he allowed the fire department to approach. And it's also compound.
But you can answer with that caveat.
BY MR. CASILLAS:
Q. Did you give the fire department the green light to go and make contact with him?
A. Once the officers determined that the suspect was not a threat, yes.
Q. Okay. And before you did that, did you do anything to determine if there was a firearm in the immediate vicinity of the suspect?
MS. LEE: Objection. Asked and answered.
But you can answer it again.
THE WITNESS: I did not, no.
BY MR. CASILLAS:
Q. Okay. Do you know if anybody did?
A. The officers who checked to make sure that he had -- was not -- did not have a gun in his hand and he

wasn't a threat did just that.

Q. So -- so you never looked for a gun yourself in that immediate vicinity; right?

MS. LEE: Objection. Asked and answered.

Go ahead.

THE WITNESS: No, I did not.

BY MR. CASILLAS:

Q. Did you believe there was one there?

MS. LEE: Objection. Vague and ambiguous and overbroad as to -- and irrelevant.

But go ahead and answer.

THE WITNESS: It's not my job to look and see if there was a gun.

BY MR. CASILLAS:

Q. Before you approached the suspect, you -- you had spoken to Officer Urrutia; right?

A. Yes.

Q. He told you, and you believed, he had been shot; right?

MS. LEE: Well, objection. That misstates his testimony.

BY MR. CASILLAS:

Q. Well, let me ask you. Did you believe he had been shot?

A. That was the information I was given, yes.

Q. Okay. And there was nothing to the contrary that you had there immediately that suggested that wasn't true; correct?

A. No. I didn't -- I had no way of knowing if that was true or not. I assumed it was true.

Q. Yeah. And -- and did you also assume that it was the suspect that had shot him?

A. Yes.

Q. Okay. And I -- as things -- as these things go on, I'm assuming that that pretty much made the suspect, if he was still alive, a very, very dangerous individual; correct?

MS. LEE: Well. Objection. It's -- it's argumentative and vague and ambiguous and overbroad, as to a dangerous individual in what context.

But you can go ahead and answer.

THE WITNESS: If he was still armed --

MR. CASILLAS: Yeah.

THE WITNESS: -- then I would believe that he would be a danger, yes.

BY MR. CASILLAS:

Q. Because he had just shot one of your officers; right?

A. Yes.

Q. Was it relevant to you, during any of the work

that you did out there that night, whether or not the suspect was armed?

MS. LEE: Well, objection. That's extremely vague, ambiguous and overbroad as to relevant to him, but --

THE WITNESS: What do you mean by that, sir?

BY MR. CASILLAS:

Q. Well, I mean, was -- did it matter, I guess, for lack of a better word, whether or not the guy was actually armed?

MS. LEE: Well, same objections. Vague, ambiguous and overbroad as to did it matter. In what context? How? For what purpose?

MR. CASILLAS: Yes.

MS. LEE: At what time?

MR. CASILLAS: Yes.

MS. LEE: That's extremely vague and ambiguous.

MR. CASILLAS: You know what, Counsel. We've got to start somewhere. And I'm entitled to ask him.

MS. LEE: Well, not if you have to ask him a bad question. But you know what, go ahead. He can answer if he understands your question. That's fine.

THE WITNESS: At that -- after that, no.

BY MR. CASILLAS:

Q. Okay. After that being after it was determined

that it was clear?

A. No. I mean after that -- determined that we had an officer-involved shooting.

Q. Yeah.

A. No.

Q. What do you mean by that?

A. It's not for me to conduct an investigation or come to any conclusion.

Q. And -- and you yourself as -- as -- as the supervising officer was -- was even just for your own account, if only out of concern for your own officers, were you curious if, in fact, the suspect was armed?

MS. LEE: Objection. It's vague, ambiguous and overbroad. And completely irrelevant as to his curiosity. I don't even understand why you're asking this question, but --

MR. CASILLAS: Counsel, believe it or not, I actually don't have to tell you why I ask questions.

MS. LEE: Well, but I need to understand it in order to competently represent my client. And I don't even understand this line of questioning. But you know what, I'm going to instruct him to answer you if he understands it.

Go ahead.

THE WITNESS: Can you ask your question again?

BY MR. CASILLAS:

Q. Yeah. I mean, was it at all relevant, in any way, shape or form, especially given that you were supervising those officers out there, whether the suspect actually was armed?

MS. LEE: Well, it's been asked and answered. And same objections as to vague, ambiguous and overbroad as to relevant to him. In what context? When? For what purpose?

You can answer, if you understand it.

THE WITNESS: My concerns after -- my concern was to preserve the scene, so that the investigative teams could come and do their job.

BY MR. CASILLAS:

Q. Did you know if anybody looked underneath the car to determine if there was a firearm -- a firearm underneath it, before the -- before you allowed the fire department to contact the suspect?

MS. LEE: Well, objection. It misstates the testimony, as to allowed the fire department.

MR. CASILLAS: He told us. He told us.

MS. LEE: No. Actually, no, he didn't.

BY MR. CASILLAS:

Q. Okay. Did you allow the fire department to access the scene?

MS. LEE: No. He -- I'm sorry, Counsel. But you're creating a false record. His testimony is that the fire department will not approach unless the scene had been cleared. He doesn't allow or not allow anybody. So I'm not going to allow you to create a false record. I'm sorry.

MR. CASILLAS: I'm asking. Okay.

BY MR. CASILLAS:

Q. Did you allow -- did you give permission for the fire department to access the suspect?

MS. LEE: And that misstates his testimony.

But you can answer.

THE WITNESS: We don't give permission, sir. That's their job, is to check for medical condition.

BY MR. CASILLAS:

Q. Right. And -- after it's clear; right? You say, hey, look, it's clear. You can go see him; right?

A. That's -- that's their discretion. I don't tell them to do that -- the job.

Q. I'm not asking you anything about what job they did.

A. Well, you're asking me if I allowed them.

Q. To approach, to actually make contact with him; did you allow them to do that?

MS. LEE: Well, it's the same objection.

Counsel, you're harassing him now.

MR. CASILLAS: No, I --

MS. LEE: You're using the word allow. And that's not appropriate in the context --

MR. CASILLAS: Well, sure --

MS. LEE: -- and contrary to the testimony --

MR. CASILLAS: -- it is. He's a supervisor --

(Simultaneous speakers.)

THE REPORTER: Okay. Counsel, I can't make a record when you speak at the same time.

MR. CASILLAS: I get that.

BY MR. CASILLAS:

Q. You're saying, look -- did you say look, it's safe guys, fire department. Okay. You can go and do whatever you have to do?

MS. LEE: That's not allowed.

MR. CASILLAS: How is that?

MS. LEE: That's been asked and answered. He already -- you've asked him multiple times if he cleared the scene. And he did. And he said the fire department approached after that. He doesn't allow them to do something or does not allow them. He doesn't have the authority to allow them or not. That's clear from his testimony. And you're trying to continuously create a false record. I'm not going to allow you to do that.

BY MR. CASILLAS:

Q. Did you make sure it was safe for the fire department to approach the suspect?

A. Yes.

Q. Okay. And what did you do, if anything, to determine if there was a firearm underneath the vehicle?

MS. LEE: Asked and answered.

But go ahead. You can answer him again.

THE WITNESS: I didn't.

BY MR. CASILLAS:

Q. After the fire department contacted the suspect, did you ever return to check on Mr. Urrutia?

A. No. By the time that we had cleared the front of the car, he had already been loaded into the rescue ambulance.

Q. Eventually, did you -- did you learn -- I -- I I'm going to assume that throughout the evening before you left there, you were concerned for Mr. Urrutia's well-being, believing that he had been shot; yes?

MS. LEE: Objection. Asked and answered.

Go ahead.

THE WITNESS: Yeah. I was concerned about his safety, yeah.

BY MR. CASILLAS:

Q. So you knew that they -- an RA had taken him

away to a hospital; yes?
A. Yes.
Q. Okay. Did you inquire as to his well-being at any time before you left the scene of the shooting?
A. Yes.
Q. What did you do to check on him?
A. I believe I asked one of the FID detectives.
Q. Is he okay, something like that?
A. Something along that line.
Q. What did they tell you? What do you remember them telling you?
A. I don't remember. I don't remember any specifics. I just remember that he was okay, but I don't remember any specifics.
Q. Did you learn that night that, in fact, he had not been shot?
A. I don't recall if I learned that that night or later on.
Q. Did you learn later -- when was it later on that -- that you learned that he had not been shot?
A. I don't recall when I found that out exactly.
Q. And what -- what did you learn in terms of the injury that he had suffered?
A. I learned -- at some time, I learned that he wasn't shot. But I don't remember learning -- once I

found out he wasn't shot, I don't know what the extent of his injuries were after that.

Q. It didn't matter to you?

A. Well --

MS. LEE: Objection.

MR. CASILLAS: Trying to be respectful, but --

MS. LEE: It's argumentative.

BY MR. CASILLAS:

Q. Did it matter to you? I'm sure it did. And I don't mean to be -- but I'm sure it mattered to you, being shot. I mean, did he have a broken arm? Did the door hit him when the car went forward? Did he fall and hit his funny bone, something like that?

MS. LEE: Objection. It's -- calls for speculation. And it's asked and answered. He can tell you if he had learned what the extent of the injuries were after the fact, unless that was part of anything that was our attorney-client privilege.

But you can go ahead and answer, if it's outside of that.

THE WITNESS: I learned that he wasn't shot. I didn't -- I didn't know what exactly the injury was after that.

BY MR. CASILLAS:

Q. At any time afterwards, after learning that he

had not been shot, did you ever talk to Officer Urrutia about his injury?

A. No, not specifically.

Q. Generally?

A. Well, when I saw him back at work, I figured it was, you know, good enough for him to be back at work.

Q. Yeah. And did you say, hey, you good, or words to that effect?

A. Yeah. Glad to see you back.

Q. It wasn't like he was wearing a cast or a bandage or anything? You didn't see that, did you?

A. I don't recall if I did or not.

Q. I'm just looking at my outline here. And I'm not sure that I have any more questions for you.

I may have asked this already. I think I did, but just to be complete here: Did you eventually learn that there was a toy gun found underneath the Urrutia Ramirez patrol car?

A. Sometime in there, I was informed that it was a toy gun. I don't recall how long it was after the incident.

Q. And did you -- did you inquire about it? Did you see a photograph of it, and did you -- anything along those lines to confirm what was the nature of that toy gun?

MS. LEE: Objection. It's compound. And I'm going to instruct him not to answer, insofar as his answer would encompass anything that he learned within the attorney-client privilege.

THE WITNESS: Okay. So can you be more specific with your question, please?

BY MR. CASILLAS:

Q. Yeah. Did you find out what was the nature of that toy gun? I mean, what it looked like. Was it plastic? Was it rubber? Was it anything like that?

MS. LEE: Well, okay. Same objections. And don't answer him if any of that information that you obtained was within the attorney-client privilege.

THE WITNESS: No. I just learned it was a toy gun.

BY MR. CASILLAS:

Q. ++ Did you yourself, as a supervisor of Mr. Urrutia and Mr. Ramirez, counsel them in any way about toy guns after the incident and after learning again that it was a toy gun that was in possession of the suspect?

MS. LEE: I'm going to object and instruct him not to answer, as it's privileged information. I don't know that he did or didn't, or any of that ever happened. But I'm going to instruct him not to answer

as to that.

MR. CASILLAS: On what grounds?

MS. LEE: On it's privileged.

MR. CASILLAS: Privileged how?

MS. LEE: It's privileged because he's not going to answer as to any alleged discipline or anything of that nature.

MR. CASILLAS: I'm not asking about discipline.

MS. LEE: Well, that's the way that I'm taking it. And I'm not going -- I'm not going to have him answer as to any counseling, discipline, talks or anything of that nature. He's not going to answer it. Once again, I don't know if it's occurred or if it didn't occur. But I'm instructing him not to answer as to that.

BY MR. CASILLAS:

Q. Did -- in light of your testimony earlier, was the Urrutia Ramirez shooting the first incident, LAPD incident, that you became aware of involving the shooting of a suspect with a toy gun?

A. I don't recall if it was the first one or not. I don't recall hearing anything like that.

Q. Okay. So you don't recall of any before that. So is it safe to say that the Urrutia Ramirez shooting was the first one you'd learned about?

MS. LEE: Objection. Asked and answered.

THE WITNESS: I don't know if there was any specific one that I had heard about before.

BY MR. CASILLAS:

Q. Okay. How about after?

MS. LEE: Well, it's irrelevant as to after. But I'm going to have him answer if he has recollection or knowledge.

THE WITNESS: Again, I don't recall any specific one that the LAPD had been involved in.

MR. CASILLAS: The -- I think we're done, Sergeant.

What I'm going to propose to Ms. Lee is a stipulation for the handling of the transcript.

And that is that we relieve the court reporter of her duties under the Code with respect to the handling of the transcript.

And that she be so relieved upon her placing the final original transcript in the U.S. mail to the attention of Ms. Lee.

That Ms. Lee agree to be the custodian of the original transcript and to produce it upon reasonable notice for any proceeding related to this case.

That she agrees to present the original transcript to the witness, requesting him to read it to

make any changes to it, and to sign it under the penalty of perjury.

And that she also agree that once he does that, that she notify this office in writing of him having done so, including any changes that he may have made to the transcript.

That she also agree that in the event the original signed transcript is not available -- oh, I'm sorry. I forgot. I had one more question for you.

BY MR. CASILLAS:

Q. In preparing for today's deposition, did you review any records, any documents, any photographs, any videos?

A. Yes.

Q. What did you review?

A. My statement that I gave to FID.

Q. Okay. Did you -- and was that the audio statement or the transcript of it?

A. The transcript.

Q. Okay. I have what I believe -- and other than that, did you review anything else?

A. My body-worn video.

Q. Okay. Other than the body-worn video and the transcript, did you review anything else?

A. No.

Q. Okay. Did you talk to Sergeant Talmadge about this deposition?

MS. LEE: Well, objection. I'm going to instruct him not to answer if it is any communications that were within the attorney-client privilege, when we met together.

So you can answer outside of that, if you talked to Sergeant Talmadge.

THE WITNESS: No.

BY MR. CASILLAS:

Q. Ever? Did you ever talk to Sergeant Talmadge about that shooting, outside of the presence of counsel?

A. No.

Q. Was this the first shooting that you and Sergeant Talmadge were involved in? And I'm not saying in shooting, but in -- involved in, in the sense of being supervisors together?

MS. LEE: Objection. It calls for speculation as to Sergeant Talmadge, but he can answer if --

BY MR. CASILLAS:

Q. I'm talking about the two of you together.

A. This would be -- this would be the first OIS.

Q. Yes.

A. Yes.

Q. Okay.

A. I don't know if there's any, you know, just regular other gang-related shootings or those kind.

(The following proceedings have been deemed confidential and are bound in a separate booklet.)

* * * *

OPEN RECORD RESUMED

* * * *

MR. CASILLAS: Okay. Again, the stipulation for Ms. Lee to consider that we relieve the court reporter of her duties under the Code and that she be so relieved upon her placing the original transcript in the U.S. mail to Ms. Lee's attention.

That she agree to be the custodian of the original transcript and to produce it upon reasonable notice for any proceeding related to this case.

That she agree to provide the witness a copy of the transcript, and that she also agree to instruct him to read it to make any changes to the transcript and to sign it under the penalty of perjury.

That she agree to notify me in writing or this office in writing of him having done so. And that she -- should he make any changes, that she indicate those changes.

That we also agree that if the original signed transcript is unavailable for any reason, that we allow a certified copy of this transcript to serve for any purpose that the original signed transcript can be used for.

MS. LEE: Yes, so stipulated.

MR. CASILLAS: Thank you.

THE REPORTER: Quick question, Counsel. You said in the U.S. mail. If the office sends it overnight or something, that's okay?

MR. CASILLAS: That's fine. I won't hold it against you.

THE REPORTER: Okay.

MR. CASILLAS: So stipulated?

MS. LEE: Yes.

THE REPORTER: Okay. And then did you want to go ahead and attach the exhibit?

MR. CASILLAS: Yes. And what we'll do is we'll identify that as Exhibit 10. And that will be a separate exhibit, identified as confidential.

(Exhibit No. 10 was marked for identification.)

MS. LEE: So that's going to be under seal, as well as the testimony where we indicated where it started as under seal.

MR. CASILLAS: Yeah. And for the record, it is not under seal. Under seal is something the court does. It is confidential and subject to the protective order.

MS. LEE: Well, I don't necessarily agree with that. But yes, that's fine.

(At 4:03 p.m., the deposition of SERGEANT BRADLEY HEARN was adjourned.)

STATE OF CALIFORNIA)
) ss:
COUNTY OF ORANGE)

I, SHIRLEY KOCH, do hereby certify:

That I am a duly qualified Certified Shorthand Reporter, in and for the State of California, holder of certificate number 10849, which is in full force and effect and that I am authorized to administer oaths and affirmations;

That the foregoing deposition testimony of the herein named witness was taken before me at the time and place herein set forth;

That prior to being examined, the witness named in the foregoing deposition, was duly sworn or affirmed by me, to testify the truth, the whole truth, and nothing but the truth;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me, and were thereafter transcribed under my direction and supervision;

That the foregoing pages contain a full, true and accurate record of the portion of the proceedings and testimony which was not designated as confidential to the best of my skill and ability;

That prior to the completion of the foregoing deposition, review of the transcript was requested.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the outcome of this action.

IN WITNESS WHEREOF, I have subscribed my name this ____ day of _____, ____.

_____

SHIRLEY KOCH, CSR No. 10849

PENALTY OF PERJURY CERTIFICATE

I hereby declare I am the witness in the above captioned matter; that I have read the foregoing transcript or that it has been read to me, and I know the contents thereof; that the transcript is true to my knowledge, except as to those matters which are herein stated upon my information or belief, and as to those matters, I believe them to be true; that I find the transcript to be a true and accurate transcription of the portion of my testimony which was not designated as confidential, with the following corrections, if any:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on the ____ day of _____ 20___, at _____, _____.
(City) (State)

_____

SERGEANT BRADLEY HEARN

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